
REQUEST FOR PROPOSALS

Lease of Property

694-704 Madison Avenue

**Located in:
Memphis, Shelby County, Tennessee**

**RFP TRANSACTION NUMBER:
20-10-010**

UNIVERSITY OF TENNESSEE

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RFP Release Date: December 4, 2020

1. INTRODUCTION

1.1. Statement of Procurement Purpose

The University of Tennessee, hereinafter referred to as the “University” or “Landlord,” is seeking proposals from qualified entities interested in the lease of property owned by the University at 694-704 Madison Avenue, Memphis, TN (“Leased Premises”) on which the entity would operate a development (the “Development”) that provides support services for University students, such as restaurant and/or coffee shop, retail, study/gathering space, and similar type spaces. If a respondent proposes to renovate the existing buildings or raze the current improvements and construct a new building for the Development, then the respondent would also be responsible for the planning, design, financing and construction of such new building. The Leased Premises may only be used for the construction and operation of the Development and associated parking to support the Development.

The University has issued this Request for Proposals (“RFP”) to define the University’s leasing requirements; solicit proposals; detail proposal requirements; outline the University’s process for evaluating proposals and selecting a Proposer to enter into an agreement to lease the Leased Premises and design, renovate or construct, operate, and maintain the Development.

The RFP process will include two phases – Phase I will include information on qualifications; experience; financial capability; schedule; conceptual program and design; benefits to University faculty, staff and students; and operating and financial plan including rent or other consideration to the University. Phase II will include finalist negotiation with the best evaluated proposer.

Throughout this RFP, the University seeks to lease the Leased Premises to the Proposer with the best proposal for the use of the Leased Premises to provide the highest financial benefit to the University; the greatest benefits to University faculty, staff and students; and to give ALL qualified Proposers (each individually, a “Proposer” and collectively, the “Proposers”) including those that are or are owned by minorities, women, Tennessee service-disabled veterans, opportunity to do business with the University.

As an agency of the State of Tennessee, there are certain terms and conditions the University cannot legally accept. PROPOSALS INCLUDING OR REFERENCING TERMS AND CONDITIONS OTHER THAN THOSE REFERENCED BY THE UNIVERSITY IN THIS RFP MAY BE REJECTED.

1.2. Disclaimer of Subjectivity

Proposers should understand and accept that by responding to this RFP they are willingly participating in a subjective evaluation process. Proposers should be aware that the proposal determined to best meet the needs of the State may not necessarily be the proposal offering the highest financial benefit.

1.3. Description of Development

The Development will serve as an enhancement to the existing University of Tennessee Health Science Center (UTHSC) academic, clinical, and research facilities in the area, as well as to the to be constructed housing development on adjacent property owned by the University.

There is growing awareness of the need for this type of space in this area. With a student enrollment of approximately 2,900 and over 4,000 employees, UTHSC finds itself in a position where it desires to align with a talented and experienced partner utilizing a highly-desirable location on campus to meet this demand. The University recently leased an approximate 9.7 +/- acres comprised of several parcels adjacent to this property for construction and operation of a housing development to serve UTHSC faculty, staff and students. The housing would also be open to the general public.

The Development should convey through its design a strong “sense of place” as part of a safe, vibrant, walkable neighborhood for learning, living and playing while ensuring quality and functionality meeting student, faculty, and staff needs. The Development should have secure and functional linkages to the UTHSC, the adjacent housing development and the Memphis Medical District. Access from the Development should be well lit and provide a safe environment.

The Landlord is issuing this RFP based on the premise of providing retail uses for Landlord's students, faculty and staff. The Development shall be consistent with and compliment the surrounding environment, particularly the UTHSC Campus, in terms of scale, size and architecture. While other concepts will be considered, a one to two-story development is preferred with an approximate 12,000 - 15,000 square foot or less footprint. The space shall be used for retail services desired by UTHSC students, faculty and staff such as restaurants, coffee shops and convenience services. Any use not considered retail (e.g., office space) must be approved by Landlord. All uses are subject to Section 10, Permitted Use of the Lease.

Additional information on the UTHSC is available at <http://www.uthsc.edu>. The campus Master Plan can be found at <https://www.uthsc.edu/masterplan/>. Information on the housing development can be provided upon request sent in accordance with Section 1.6 of this RFP.

1.4. Summary of Terms & Conditions

Below is a summary of certain required terms and conditions associated with this opportunity. (See Attachment 6.4, Ground Lease Agreement, for additional terms and conditions). Notwithstanding the forgoing, the University and the best evaluated Proposer shall negotiate the final comprehensive development deal, and various terms and conditions of such are at this time unknown and should be offered by the Proposer.

1.4.1. DEVELOPMENT OPPORTUNITY

Finance, plan, design, develop, construct, manage and operate the Development on the Leased Premises with the quality, services and pricing consistent with a University campus setting. The design of the facility is subject to University approval and will reflect a design and ambiance congruent with the campus educational and aesthetic objectives.

1.4.2. INITIAL TERM

The University requests proposals for the lease of the Leased Premises for a period of thirty (30) years, with two (2) fifteen (15) year options for renewal. The first renewal option may be exercised by the Proposer by providing University with written notice of its desire to renew at least one (1) year prior to the expiration of the initial term. The second renewal option must be mutually agreed upon by the University and Proposer.

1.4.3. TERM COMMENCEMENT

The lease shall commence on the date the Lease Agreement is fully executed and the term will commence once the Development has received a certificate of occupancy.

1.4.4. THE SITE

1.4.4.1 PARCEL

The Leased Premises includes approximately 0.5 acres +/- at 694-704 Madison Avenue.

1.4.4.2 EXISTING CONDITIONS

The Leased Premises is being leased as-is for development and long-term management without any representation regarding the environmental condition of the site. No representations or warranties whatsoever are made as to its condition, state or characteristics. Expressed warranties and implied warranties of fitness for a particular purpose or use and habitability are hereby disclaimed. Existing improvements and facilities located on the Leased Premises that will

not be retained as a part of the proposed Development are to be demolished by the Proposer. Proposers will have an opportunity to inspect the Leased Premises prior to taking possession and will acknowledge prior to submitting a proposal to have had full opportunity to inspect the Leased Premises and make an evaluation of the Leased Premises for any and all purposes. Failure or omission of Proposer to acquaint themselves of the existing conditions of the Leased Premises shall in no way relieve Proposer of any obligation with respect to the Lease. The Proposer shall be responsible for the removal or remediation of hazardous materials that are required by law to be removed or remediated for the Development, if any.

If necessary, the existing buildings within the Leased Premises shall be demolished by the Proposer at the sole cost and expense of the Proposer.

Testing, audits, appraisals, inspections, or other non-invasive testing that is necessary or desired to submit a proposal, shall be at the sole expense of the prospective respondent.

1.4.5. FORM OF LEASE PAYMENT

The Development will be expected to provide a financial return to the University in the form of ground rent or other equally-attractive remuneration. Proposals shall offer lease rental, profit sharing, or other similar market revenue streams to the University as such may pertain to the Development. Proposals should also include other non-monetary benefits to the University by demonstrating how goods and services offered in the Development will benefit University students, faculty and staff.

1.4.6. INTENTIONALLY DELETED

1.4.7. LEASE AGREEMENT

The RFP Attachment 6.4, Ground Lease Agreement details the University's desired terms and conditions and substantially represents the lease terms that the successful Proposer must sign. If alternative lease terms and conditions are proposed, these shall be identified as a red-line document of the RFP Attachment 6.4, Ground Lease Agreement or in a separate lease document. While the University is willing to consider alternative terms and conditions, the University has no obligation to consider or to agree to any proposed alterations.

The University will take all reasonable suggested alternative or supplemental contract language changes by Proposers under advisement during the "Questions and Comments" period, subject to any mandates or restrictions imposed on the State by applicable state or federal law. The revised version of the Ground Lease Agreement will be released concurrently with the State's Response to "Questions and Comments".

Note: When preparing the redline draft of the Ground Lease Agreement for submission during the Question & Comments period, DO NOT include any cost, revenue, or other financial information. If any financial information is included in any part of the redline Ground Lease Agreement, the University may reject the redline entirely and/or consider it as unauthorized communication about the RFP, which may result in disqualification from consideration under this procurement process.

1.4.8. QUALIFICATION OF PROPOSER

As evidence of its financial ability, each Proposer (no brokers or realtors) shall submit with its Phase I proposal, a copy of each of the Proposer's last three (3) fiscal years' annual financial statements reviewed or audited by a chartered accountant or certified public accountant. The proposal must include the financial statements of any and all relevant

parties involved in this endeavor. Failure to conform to this section may be grounds for rejection of the proposal. The information provided shall be a public record under T.C.A. § 10-7-501 et seq.

1.4.9. **EXPERIENCE**

Respondents to this RFP must demonstrate experience in designing, constructing, operating and managing similar type developments. Experience working near Higher Education entities is desirable.

1.4.10. **SUBMITTAL OF PROPOSAL**

Proposals must be made in the official name of a firm or individual (no lease brokers) under which the Development will occur, showing official business address, and must be signed by a person or persons authorized to legally bind the person, partnership, company, or corporation submitting the proposal.

1.4.11. **BID BINDER**

Each Phase II proposal must be accompanied by a proposal binder in the form of a certified or cashier's check or bid bond in the amount of \$10,000 by Proposer (to be included in the sealed envelope marked "Bid Binder"). If the University accepts the Proposer's proposal and enters into a lease with the Proposer, the Bid Binder shall be returned to the Proposer or applied to the rental payment requirements of the lease, as appropriate. If the successful Proposer fails to or refuses to enter into the lease within the time allowed, then Proposer's Bid Binder shall be forfeited and the University shall be entitled to retain it. The checks and bonds of unsuccessful Proposers shall be returned promptly after a decision has been made not to proceed further with such Proposer.

1.4.12. **UNIVERSITY BRANDING**

The University shall have the right to approve all signs and materials used by Proposer in the promoting or marketing of space in the Leased Premises which contain a reference to UTHSC, which approval shall not be unreasonably withheld. Proposer and the University agree to negotiate and resolve in good faith any disputes relating to all such marketing materials.

1.4.13. **UNIVERSITY PARTICIPATION**

The University's participation in the Development is limited to the property to be leased, the Leased Premises, under negotiated terms and conditions. The University may assist the Proposer in obtaining the pertinent documentation for the financing of the Development contemplated by this RFP, as may be determined appropriate during negotiations. Proposals that are contingent on receiving financial assistance in any form from the University shall not be considered. The selected Proposer shall be required to provide all financing for the construction, operation and maintenance of the Development and operating expense and to provide deposits or surety to guarantee required performance.

1.4.14. **RELATIONSHIP OF THIS RFP AND RESPONSE TO RFP TO LEASE**

The terms and conditions described in this RFP shall survive the execution of the lease agreement between the parties (the "Lease Agreement"). The RFP and the response to RFP that is selected will be incorporated by reference into the Lease Agreement. Where there is a conflict between the terms of the Lease Agreement and/or RFP and the terms of the response to the RFP, the terms of the Lease Agreement shall govern.

1.5. **Nondiscrimination**

No person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of a lease pursuant to this RFP or in the employment practices

of the University under such lease, on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The successful Proposer pursuant to this RFP shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

1.6. RFP Communications

- 1.6.1. The University has assigned the following RFP identification number that must be referenced in all communications regarding this RFP:

RFP TRANSACTION NUMBER 20-10-010

- 1.6.2. **Unauthorized contact about this RFP with employees, officials, or consultants of the University of Tennessee except as detailed below may result in disqualification from consideration under this procurement process.**

- 1.6.2.1. Potential Proposers must direct communications relating to this RFP to the following person designated as the RFP Coordinator during the proposal process:

University of Tennessee
Office of Real Property and Space Administration
Attn: Adam Foster
5723 Middlebrook Pike
Suite 201
Knoxville, TN 37996-0045
Phone: (865) 974-2441
Fax: (865) 974-4814
Email: afoste17@tennessee.edu

- 1.6.2.2. Intentionally Deleted.

- 1.6.2.3. Notwithstanding the foregoing, potential Proposers may contact:

- a. Intentionally deleted
- b. the following individual designated by the University to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and associated federal regulations:

University of Tennessee
Office of Real Property and Space Administration
Attn: Adam Foster
5723 Middlebrook Pike
Suite 201
Knoxville, TN 37996-0045
Phone: (865) 974-2441
Fax: (865) 974-4814
Email: afoste17@tennessee.edu

- 1.6.3. Only the University's official, written responses and communications will be binding with regard to this RFP. All oral communications of any type will be unofficial and non-binding.

- 1.6.4. Proposers must ensure that the University receives all written comments, including questions and requests for clarification, no later than the Written Questions and Comments Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.6.5. Proposers must assume the risk of the method of dispatching any communication or proposal to the University. The University assumes no responsibility for delays or delivery failures resulting from the method of dispatch. Actual or digital “postmarking” of a communication or proposal to the University by a specified deadline date will not substitute for the University’s actual receipt of a communication or proposal.
- 1.6.6. The University will convey all official responses and communications related to this RFP to the potential Proposers from whom the University has received a Notice of Intent to Propose (RFP Section 1.10).
- 1.6.7. The University reserves the right to determine, at its sole discretion, the method of conveying official, written responses and communications related to this RFP. Such written communications may be transmitted by mail, hand-delivery, facsimile, electronic mail, Internet posting, or any other means deemed reasonable by the University.
- 1.6.8. The University reserves the right to determine, at its sole discretion, the appropriate and adequate responses to written comments, questions, and requests related to this RFP. The University’s official, written responses will constitute an amendment of this RFP.
- 1.6.9. Any data or factual information provided by the University (in this RFP, an RFP amendment or any other communication relating to this RFP) is for informational purposes only. The University will make reasonable efforts to ensure the accuracy of such data or information; however it is within the discretion of Proposers to independently verify any information before relying thereon.

1.7. Assistance to Proposers with a Handicap or Disability

Potential Proposers with a handicap or disability may receive accommodation relating to the communication of this RFP and participating in the RFP process. Potential Proposers may contact the RFP Coordinator to request such reasonable accommodation no later than the Disability Accommodation Request Deadline detailed in the RFP Section 2, Schedule of Events.

1.8. Proposer Required Review of Waiver of Objections

- 1.8.1. Each Proposer must carefully review this RFP, including but not limited to, attachments, the RFP Attachment 6.4., Form of Ground Lease Agreement, and any amendments, for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively, “Questions and Comments”).
- 1.8.2. Any Proposer having Questions and Comments concerning this RFP must provide such in writing to the University no later than the Written Questions and Comments Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.8.3. Protests based on any objection shall be considered waived and invalid if the objection has not been brought to the attention of the University, in writing, by the Written Questions and Comments Deadline.

1.9. Pre-Proposal Conference

A Pre-Proposal Conference will be held at the time and date detailed in the RFP Section 2, Schedule of Events. Pre-Proposal Conference attendance is not mandatory, and potential Proposers may be limited to a maximum number of attendees depending upon overall attendance and space limitations.

The conference will be held virtually on December 17, 2020 at 9:00 a.m. (central). To connect via zoom or call in please see the information below:

Join from PC, Mac, Linux, iOS or Android: (copy and paste to your browser if link does not work) -

<https://tennessee.zoom.us/j/94828994072?pwd=OG1HQzk3QnhUVVpDTGJTR0Vob0x6dz09> Password: 675218

Or iPhone one-tap (US Toll): +13126266799,94828994072#

Or Telephone:
Dial: +1 312 626 6799 (US Toll) Meeting ID: 948 2899 4072

The purpose of the conference is to review the terms of the RFP and Lease. The University will entertain questions; however potential Proposers must understand that the University's response to any question at the Pre-Proposal Conference shall be tentative and non-binding. Potential Proposers should submit questions concerning the RFP in writing and must submit them prior to the Written Questions and Comments Deadline date detailed in the RFP Section 2, Schedule of Events. The University will send the official response to questions to potential Proposers as indicated on the date detailed in the RFP Section 2, Schedule of Events.

1.10. Notice of Intent to Propose

Before the Notice of Intent to Propose Deadline detailed in the RFP Section 2, Schedule of Events, potential Proposers are requested to submit to the RFP Coordinator a Notice of Intent to Propose (in the form of a simple e-mail or other written communication). Such notice should include the following information:

- the business or individual's name (as appropriate)
- a contact person's name and title
- the contact person's mailing address, telephone number, facsimile number, and e-mail address.

A Notice of Intent to Propose creates no obligation for making a proposal relating to this RFP.

1.11. Proposal Deadline

A Proposer must ensure that the University receives a proposal no later than the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events. The proposal must respond, as required, to this RFP (including its attachments), as may be amended. The University will not accept late proposals, and a Proposer's failure to submit a proposal before the deadline will result in disqualification of the proposal. Proposals may be delivered in person, by United States mail, or other couriers. Facsimile and electronically transmitted (email) Proposals are not acceptable. It is the Proposer's responsibility to ensure that its proposal is mailed or delivered in sufficient time to arrive at the University's Purchasing Department by the submission deadline.

1.12. Developer Selection Process

This RFP includes a two-phase selection process. Proposers must propose a financing, development, management and operation plan, clearly identifying any third-party manager operator.

In Phase I, the University will accept proposals that address the Proposer's team composition, organizational approach to the project, financial capabilities, conceptual master plan with examples of comparable completed projects and a preliminary schedule.

The final phase of this process will be when the University and the best evaluated Proposer negotiate the terms of the Lease Agreement.

2. SCHEDULE OF EVENTS

2.1. RFP Schedule of Events

EVENT	TIME	DATE (all dates are University business days)
1. RFP Advertised		December 4, 2020 December 11, 2020
2. Disability Accommodation Request Deadline		December 15, 2020
3. Pre-proposal Conference	9:00 a.m. CST	December 17, 2020
4. Property Viewing/Inspection	By Appointment	Begins December 17, 2020
5. Notice of Intent (NOI) to Propose		December 23, 2020
6. Written "Questions & Comments" Deadline		December 30, 2020
7. University Response to Written "Questions & Comments"		January 7, 2021
8. Proposers due diligence period including final request for property viewing/inspection		January 13, 2021

9. Phase I Proposal Deadline	1:00 p.m. CST	January 15, 2021
10. University Opening of Phase I Proposals	1:30 p.m. CST	January 15, 2021
11. Phase I Initial Evaluations		January 22, 2021
12. Oral Presentations of Selected Phase I Proposers		January 25-29, 2021
13. University Completion of Phase I Evaluations, Evaluation Notice Issued <u>and</u> RFP Files Opened for Proposer Inspection		February 5, 2021
14. University Completion of Final Negotiations		February 26, 2021
15. University Notice of Intent to Award Issued		February 26, 2021
16. Executive Sub Committee of the State Building Commission Approval Sought		March 22, 2021
16. Lease Agreement is circulated to successful Proposer for signature		March 23, 2021
17. Lease Signature Deadline		April 5, 2021

- 2.2. **The University reserves the right, at its sole discretion, to adjust the RFP Schedule of Events as it deems necessary.** Any adjustment of the Schedule of Events prior to issuance of the Evaluation Notice shall constitute an RFP amendment, and the University will communicate such to potential Proposers from whom the University has received a Notice of Intent to Propose (refer to RFP Section 1.10).
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3. GENERAL INFORMATION

3.1. Statement of Financial Interests

It is a requirement of Tennessee Code Annotated Section 12-2-114 that a statement listing the names of any and all persons financially interested in the available space be contained in the proposal response. This requirement includes the interests of the owner/agent, any lienholders or any known future purchasers or lienholders. This information is to be provided in RFP Attachment 6.3.

3.2. Proposal & Proposer Prohibitions

- 3.2.1. A Proposal must not result from any collusion between Proposers. The University will reject any Proposal that was not prepared independently without collusion, consultation, communication, or agreement with any other Proposer. Regardless of the time of detection, the University will consider any such actions to be grounds for proposal rejection or Lease Agreement termination.
- 3.2.2. A Proposer shall not provide, for consideration in this RFP process or subsequent lease negotiations, incorrect information that the Proposer knew or should have known was materially incorrect. If the University determines that a Proposer has provided such incorrect information, the University may deem the Proposer's proposal non-responsive and reject it or terminate the Lease Agreement.
- 3.2.3. The University shall not consider a response from an individual who is, or within the past six (6) months has been, a State employee or someone deemed to have an unfair advantage. For purposes of this RFP:
 - 3.2.3.1 An individual shall be deemed a State employee until such time as all compensation for salary, termination pay, and annual leave has been paid;
 - 3.2.3.2 A contract with or a response from a company, corporation, or any other contracting entity in which a controlling interest is held by any State employee shall be considered to be a contract with or proposal from the employee; and
 - 3.2.3.3 A contract with or a response from a company, corporation, or any other contracting entity that employs an individual who is, or within the past six (6) months has been a State employee, shall not be considered a contract with or a proposal from the employee and shall not constitute a prohibited conflict of interest.

3.3. Proposal Errors & Revisions

A Proposer is liable for any and all proposal errors or omissions. A Proposer will not be allowed to alter or revise proposal documents after the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events unless such is formally requested, in writing, by the University.

3.4. Proposal Withdrawal

A Proposer may withdraw a submitted proposal at any time before the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events by submitting a written request signed by an authorized Proposer representative. After withdrawing a proposal, a Proposer may submit another proposal at any time before the Proposal Deadline.

3.5. Proposal Preparation

This RFP does not commit the University to award a lease or to pay any costs associated with the preparation, submittal, or presentation of any proposal incurred by any Proposer or Proposers.

4. GENERAL LEASING INFORMATION & REQUIREMENTS

4.1. RFP Amendment

The University reserves the right to amend this RFP at any time prior to award, provided that it is amended in writing. However, prior to any such amendment, the University will consider whether it would negatively impact the ability of potential Proposers to meet the proposal deadline and will revise the RFP Section 2, Schedule of Events if deemed appropriate. If an RFP amendment is issued, the University will convey it to potential Proposers who submitted a Notice of Intent to Propose (RFP Section 1.810). A Proposer must respond, as required, to the RFP, including all attachments and amendments.

4.2. RFP Cancellation

The University reserves the right, at its sole discretion, to cancel or to cancel and reissue this RFP in accordance with applicable laws and regulations.

4.3. University Right of Rejection

- 4.3.1. Subject to applicable laws and regulations, the University reserves the right to reject, at its sole discretion, any and all proposals.
- 4.3.2. The University may deem as non-responsive and reject any proposal that does not comply with all terms, conditions, and performance requirements of this RFP.

4.4. Disclosure of Proposal Contents

- 4.4.1. Each proposal and all materials submitted to the University in response to this RFP become the property of the University of Tennessee. Selection or rejection of a proposal does not affect this ownership right. By submitting a proposal, a Proposer acknowledges and accepts that the full proposal contents and associated documents will become open to public inspection in accordance with the laws of the State of Tennessee.
- 4.4.2. The University will hold all proposal information in confidence during the evaluation process.
- 4.4.3. Upon completion of proposal evaluations, indicated by public release of a Notice of Intent to Award, the proposals and associated materials will be open for review by the public in accordance with *Tennessee Code Annotated*, Section 10-7-504(a)(7).

4.5. Severability

If any provision of this RFP is declared by a court to be illegal or in conflict with any law, said decision will not affect the validity of the remaining RFP terms and provisions, and the rights and obligations of the University and Proposers will be construed and enforced as if the RFP did not contain the particular provision held to be invalid.

4.6. Proposal Evaluation Team

The Proposal Evaluation Team will be made up of five (5) or more State employees and will evaluate each proposal that meets the Mandatory Requirements (See RFP Attachment 6.2).

5. PROPOSAL REQUIREMENTS, EVALUATION & LEASE AWARD

5.1. Evaluation Process

The proposal evaluation process is designed to award the Lease Agreement to the Responsive and Responsible Proposer offering the best combination of attributes based upon the evaluation criteria. The term "Responsive" means a person or entity which has submitted a proposal which conforms in all material respects to the RFP. The term "Responsible" means a person or entity which has the capacity in all material respects to perform fully the Lease Agreement requirements, and the integrity and reliability that will assure good faith performance.

5.2. Clarifications

The University reserves the right, at its sole discretion, to request Proposer clarify information and/or to conduct clarification discussions with any or all Proposers. Any such clarification or discussion will be limited to specific sections of the proposal identified by the University and shall be in accordance with all policies of the University and/or State of Tennessee

5.3 Phase I Requirements & Evaluation

To be considered, a Phase I proposal must be received by the date specified in Section 2.1, RFP Schedule of Events. The University will not accept Phase I proposals received after the deadline. Phase I proposals should be submitted to the RFP Coordinator at the address listed on page 6. A cover letter (RFP Attachment 6.1), which will be considered an integral part of the Phase I proposal, must be signed by an individual who is authorized to bind the Proposer contractually and must certify that all statements in the proposal are true and correct. The letter must indicate the title or position that the individual holds in the firm and also must include the Proposer's federal tax I.D. number. RFP Attachment 6.2, Mandatory Requirements must be also completed.

Responses to Phase I of this RFP should be clear, concise and organized; meet the Mandatory Requirements; and be organized in the eight major areas described below.

5.3.1. Mandatory Requirements. The RFP Coordinator will review each Phase I Proposal to determine compliance with RFP Attachment 6.2., Mandatory Requirements. If the RFP Coordinator determines that a proposal may have failed to meet one or more of the mandatory requirements, the RFP Coordinator shall seek the advice of an attorney on the staff of the University of Tennessee who will review the proposal and document his/her determination of whether:

- a. the proposal adequately meets requirements for further evaluation;
- b. the University will request clarifications or corrections for consideration prior to further evaluation; or,
- c. the University will determine the proposal non-responsive to the RFP and reject it.

5.3.2. Organizational Qualifications/Experience. Proposers must provide detailed information that demonstrates their organizational ability to undertake a project of the magnitude described herein. At a minimum, the response to this RFP in Phase I must include the following:

5.3.2.1 Development Team: The proposed development team must be identified, including the legal nature of the business entity, all joint venture partners and the nature of their interests. The names and addresses of the principal members of the development team must be provided.

5.3.2.2 Experience: A summary portfolio of the development team must be provided. The summary should focus on the development of projects (if any) that are comparable

in size, complexity, quality and scope, including a list of all such projects started and completed during the past five years and identification of any joint venture partners. The proposal must include photographs and brief descriptions of the projects, including the date of completion, location, concept, land uses, size and construction costs; the name of the current owner of the project and the date of sale should be included if applicable. Describe experience working with similar clients (e.g., state colleges or universities).

5.3.2.3 Organizational Approach to the Project: This includes coordination with the UTHSC Campus Master Plan, building siting, building massing, landscaping, site development, and any other general planning consideration. Also discuss how the Development will coordinate/interact with the proposed adjacent housing development.

5.3.3. Financial Capability. The response must demonstrate clearly the Proposer's financial capability to construct, operate and maintain the Development. Additionally, each proposal must detail previous experience in financing projects of similar nature and magnitude, bank and credit references, annual reports, percentage of ownership, statement of net worth and such other references as the Proposer deems relevant in response to this item.

5.3.4. Preliminary Schedule. In this phase, the Proposer must provide a schedule indicating at a minimum the preliminary dates for the following: if necessary, completion of demolition of any existing structure(s); completion of design development and outline specifications; dates for review and approval by the University; start of renovation/construction of shell; completion of construction of shell; start of construction of interior improvements; and completion of the Development.

5.3.5. Management and Operating Plan. The Proposer must provide a summary of how the Development will be operated and managed once construction is complete. Provide examples of previous experience with developments of similar size, complexity, quality and scope. Also provide a copy of a sample tenant lease.

The Proposer must provide information on how maintenance and repair of the Development will be handled and a planned schedule for renewal of the Development.

Financial pro formas for the project must be provided identifying projected volume, revenues, construction capital requirements, working capital requirements, operating costs, management fees, debt-service requirements and net income/profits. The pro forma must cover the first 10 years of operation.

5.3.6 Conceptual Design. The proposal must provide a conceptual Master Plan for the site, listing required adjacencies, proposing a general design for the building (including a proposed number of floors) and gross square feet; bubble diagrams and the like should be used to illustrate the proposed conceptual plan. A site plan sketch must be included indicating possible density, site coverage, circulation patterns, service vehicle access, and provisions for parking, whether on-grade or in a parking structure.

During the Phase I oral presentation and during Phase II, and in its sole discretion, the University may seek modifications to the plans and specifications. The plans and specifications submitted by the selected Proposer, and any modifications thereto, would become part of the lease between the University and the Proposer.

- 5.3.7 Proposed Tenants and Benefits to University Students, Faculty, and Staff. The Proposer is to conceptually provide proposed uses to ensure the needs of University students, faculty, and staff are met. For example, proposals could include restaurants, coffee shops, convenience services and/or study/meeting space that would be offered to students, faculty and staff and/or other considerations beneficial to the University. Alternatively, the Proposer could provide information about the types of tenants to be sought for the Development and how those tenants would serve the needs of the University's students, faculty and staff.
- 5.3.8 Proposals must specify: (1) proposed ground-rent amounts; (2) other proposed remuneration to the University. Note: Ground rent is preferable. An evaluation team member or technical advisor with demonstrated financial experience and expertise will analyze and evaluate the proposed revenue to the University based on, but not limited to, the net present value of the revenue received by the University; comparison of this revenue to typical market returns for ground leases; and the probability the revenue will be received (e.g., guaranteed ground rent). Guaranteed revenue in an amount equal to or greater than fair market value rent for the property is desired. This analysis and evaluation will be provided to the evaluation team to assist with their scoring.

Proposal Evaluation Team members will independently evaluate each Phase I Proposal (that the RFP Coordinator has determined satisfies the Mandatory Requirements) and rank them in order from best evaluated to lowest evaluated providing a score for each proposal on a 1-100 point scale based on the evaluation criteria that has been determined prior to the release of this RFP and deposited with the University for safekeeping.. The RFP Coordinator may call the references provided by the Proposer in response to RFP Attachment 6.2, Mandatory Requirements and will share all information provided by the references with the Proposal Evaluation Team for their consideration as part of the Phase I evaluation.

The Proposal Evaluation Team will then meet to discuss the results of their evaluations. At this meeting, of the Proposal Evaluation Team discuss their evaluations of the merits of each proposal based on the criteria listed above and will select no more than the five (5) highest evaluated proposals to provide an oral presentation. No Proposer offering a proposal that the Proposal Evaluation Team determines does not set forth the basis for a Development that will be acceptable to the University will be selected to provide an oral presentation.

5.4. Phase I- Oral Presentation

The purpose of the oral presentation is to more fully understand the Proposer's plans for the Development. The RFP Coordinator will schedule Proposer oral presentations during the period indicated by the RFP Section 2, Schedule of Events. The University will maintain an accurate record of each Proposer's oral presentation session. The record of the Proposer's oral presentation shall be available for review when the University opens the procurement files for public inspection. After completion of all of the oral presentations, the Proposal Evaluation Team members will independently evaluate each Phase I Proposal and rank them in order from best evaluated to lowest evaluated. In performing such independent evaluation, Proposal Evaluation Team members will take into account the following criteria, among others: (1) a high-quality use of the site; (2) design, development, construction management, and operations capability and experience; (3) a functional and conceptual program and design; (4) proposed business terms (land rent on ground lease and/or other remuneration); (5) ability to finance the project; and (6) quality of anticipated relationship between the Proposer and the University over the term of the lease, including terms to ensure University faculty, student and staff needs are met.

5.5 Phase I - Final Evaluation

The Proposal Evaluation Team will then meet to discuss the results of their independent evaluations (the “Phase I Meeting”). At the Phase I Meeting, the Proposal Evaluation Team will discuss their evaluations of the merits of each proposal based on the criteria listed above, comparing the advantages and disadvantages of each proposal and will determine collectively the proposal deemed to be in the best interest of the University (the “Best Evaluated Proposal”) and ranking in order the other proposals. The RFP Coordinator will attend the Phase I Meeting to take notes and the RFP Coordinator will place a written summary of the discussion of the Proposal Evaluation Team at the Phase I Meeting in the procurement file. Upon determination of the Best Evaluated Proposal, the University will issue an Evaluation Notice to all Proposers identifying the Proposer selected to proceed to Phase II of the evaluation process.

The University reserves the right to accept or reject any and all proposals, to waive any informalities in a proposal, and, unless otherwise specified in writing by the Proposer, to accept any items in the proposal.

NOTICE: The Evaluation Notice shall not create rights, interests, or claims of entitlement in either the Proposer with apparent best-evaluated proposal or any other Proposer.

5.6 Phase II – Finalist Negotiation

In this final phase of the RFP, the Proposer having the Best Evaluated Proposal shall enter into negotiations with the University regarding the terms of the lease between the parties. The University may request that the Proposer make modifications to its proposal and the parties will act in good faith to reach a mutually acceptable agreement. If the University and the Proposer having the Best Evaluated Proposal cannot agree to terms, then the University may negotiate with the Proposer having the second best evaluated proposal and so on.

5.7 Lease Award Process

5.7.1. After completion of Phase II of the evaluation process, the RFP Coordinator will issue a Notice of Intent to Award to all Proposers naming the recommended Proposer and forward the lease to the proper officials of the University and/or State who will consider the same to determine whether an agreement between the parties should be forwarded to the Executive Sub-Committee of the State Building Commission (the “ESC”) for approval. **The Notice of Intent to Award shall not create rights, interests, or claims of entitlement in either the Proposer with the recommended proposal or any other Proposer.** After the determination of the University that the lease proposed by recommended Proposer is in the best interest of the University, the President of the University shall request approval of the documents by the ESC.

5.7.2. The Proposer identified in the Notice of Intent to Award must sign a lease drawn by the University pursuant to this RFP. The lease should be substantially the same as the RFP Attachment 6.4., Form of Ground Lease Agreement except as modified by the University after taking into account the results of the negotiations, if any. The Proposer must sign the lease no later than Lease Signature Deadline detailed in the RFP Section 2, Schedule of Events. If the Proposer fails to provide the signed lease by the deadline, the University may determine that the Proposer is non-responsive to this RFP and reject the proposal.

5.8 RFP Files Open

The University will make the RFP files available for public inspection on the date specified in the RFP Section 2, Schedule of Events. The files will remain open for public review from that date.

5.9. Protest Process

Any protests or appeals of protests pursuant to this RFP or the Notice of Intent to Award shall be handled in accordance with State Building Commission By-laws, Policy and Procedure Item 18.

5.10. Lease Approval and Lease Payments

5.10.1. This RFP and its Proposer selection processes do not obligate the University and do not create rights, interests, or claims of entitlement in either the Proposer with the apparent best-evaluated proposal or any other Proposer. University obligations pursuant to a lease award shall commence only after the lease is approved by University and State officials, including the ESC, as required by applicable laws and regulations and signed by the University/State and the Proposer.

5.10.2. No payment will be obligated or made until the relevant lease is approved as required by applicable statutes and rules of the State and University of Tennessee.